IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5994 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NARANBHAI R PATEL

Versus

ICCHUBHAI GOMANBHAI

Appearance:

MR AJ PATEL for Petitioners

MR BJ JADEJA for Respondents No. 1 & 2

MR ND GOHIL, AGP, for respondent No.3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 27/06/2000

ORAL JUDGEMENT

1. The petitioners herein are aggrieved by an order passed by Additional Chief Secretary (Appeals), Revenue Department, Gandhinagar, on the 22nd February, 1989, vide No.SRD/LND/B/75/84 in BARHAPA/Suo motu/SAT/4/88 in respect of land bearing Block No.66 of village Mota

Borsara of Mangrol taluka of Surat district.

2. The land was originally of the ownership of present respondents No.1 and 2, who had sold the land to the present petitioners by a registered sale deed on the 14th October, 1983. Prior to the sale, non-agricultural use permission was given to the vendors, i.e. respondents No.1 and 2 herein. However, by virtue of an order passed by this Court, the Additional Chief Secretary (Appeals), Revenue Department, took up the order of grant of N.A. permission in suo motu revision and, after hearing the original vendors, i.e. present respondents No.1 and 2, cancelled the N.A. permission granted by the Taluka Development Officer, Mangrol, vide order dated the 16th August, 1982. Being aggrieved by the said order, the present petition is preferred.

3. The only ground that is pleaded and canvassed on behalf of the petitioners by learned advocate Mr. A.J. Patel is that, although the petitioners were the owners of the property in question, having derived title by virtue of a registered sale deed, they have not been heard while passing the impugned order by the Additional Chief Secretary. It is contended that, necessary entries were made in the records of right following purchase of the property by the present petitioners from respondents No.1 and 2 and, therefore, they ought to have been heard by the learned Additional Chief Secretary (Appeals).

4. Respondents No.1 and 2 are represented by learned advocate, Mr. Jadeja. Respondent No.3 is represented by learned Assistant Government Pleader, Mr. Gohil and none appears for respondent No.4, the Taluka Development Officer, Mangrol.

5. There is no dispute about the fact that N.A. permission was granted by the Taluka Development Officer; that after the N.A. permission was granted, the land in question was sold by respondents No.1 and 2 to the petitioners by a registered sale deed; and last but not the least, that while deciding the suo motu revision, the learned Additional Chief Secretary has not heard the petitioners, who had become owners of the land by virtue of the sale deed executed in their favour. Under the circumstances, without entering into other merits of the matter, this Court is of the view that ends of justice would be better served if the matter is remanded to the learned Additional Chief Secretary for disposal in accordance with law after giving an opportunity to the petitioners of representing their case.

6. The order impugned in this petition is, therefore, quashed and set aside. The matter is remanded to the Additional Chief Secretary (Appeals), Revenue Department, for fresh decision on the question after due notice to the petitioners. It would be open for the parties to raise all contentions before the said authority. Since the matter is very old, the authority concerned will decide the matter as expeditiously as possible. Rule is made absolute accordingly. No costs.

[A.L. DAVE, J.]

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